

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 3, 2006

Regulation Package #0305-04

CDSS MANUAL LETTER NO. OPS-06-01

TO: HOLDERS OF THE OPERATIONS MANUAL, DIVISION 11

Regulation Package #0305-04**Effective 1/12/06****Sections 11-400, 11-402, and 11-403**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Operations_619.htm.

These emergency regulations implemented the provisions of Welfare and Institutions Code Sections 11462(a)(3), 11463(i) and 11466.2(a). Welfare and Institutions Code Section 11462(a)(3) required CDSS to determine the rate classification level (RCL) for each group home program on a biennial basis according to a schedule established by CDSS. Similarly, Welfare and Institutions Code Section 11463(i) required CDSS to determine the rate category for each foster family agency on a biennial basis according to a schedule established by CDSS. Welfare and Institutions Code Section 11466.2(a) specifies that a non-provisional program audit period may be less than the period for which the rate is established.

The emergency regulations amended existing policies and procedures pertaining to the annual system and adopted additional regulations to implement a biennial system as required by statute. The regulations revised the rate application/requested due date and rate effective date, revised the penalty provisions, revised the due dates related to "good cause" extensions, and added three definitions necessary for clarity. These regulatory amendments were necessary to implement a biennial rate setting system that is coherent and equitable to the persons who are subject to them.

The regulations were adopted on an emergency basis effective August 1, 2005 and were considered at the Department's public hearing held on September 14, 2005.

After the public hearing, clarifying changes were made to the original emergency regulations and are reflected in this manual letter.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Operations Manual regulation changes was OPS-05-02.

<u>Page(s)</u>	<u>Replace(s)</u>
43 and 44	Pages 43 and 44
74	Page 74
77 and 78	Pages 77 and 78
83 through 86	Pages 83 through 86
89 and 90	Pages 89 and 90
99 and 100	Pages 99 and 100
102 through 105	Pages 102 through 105
162 and 163	Pages 162 and 163
166 and 166.1	Pages 166 and 166.1
169 and 170	Pages 169 and 170

Attachments

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- (5) Until they complete the 8 hours of training as required in Section 84065(i)(1), new child care staff hired on or after July 1, 1999 shall perform the duties as defined in Subsections (1) through (4) above while under visual supervision.

The August 30th Report states:

"FUNDING FROM OTHER SOURCES

The Department recognizes that circumstances may arise when it is not clear whether staff hours associated with a particular activity fall into one of the program components used for classification purposes. Such circumstances will be determined by the Department on a case-by-case basis. As a general rule, however, the source of the revenue received by the group home provider to fund an activity will be used to make this determination.

For example, a group home program may have a staff (sic) person with professional qualifications in education who works with the children on their school work outside of the school classroom. Many children in foster care are below grade level and need special attention.

If the provider receives funding for this activity through the education system, it is considered an educational activity, which is not one of the three program components used for classification purposes.

However, if the provider is not otherwise funded for this activity, it may be considered a parental-type activity (helping one's child with his/her home work) that is allowable for funding under AFDC-FC and the hours will be counted as Child Care and Supervision for classification purposes. In "gray" areas such as this, considering the source of revenue used to fund an activity will allow the Department to avoid the possibility of duplication of funding from other public sources."

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- (5) Child Care Worker - A group home employee, identified as performing child care duties in the employee's duty statement, engaged in providing child care and supervision duties and who meets CCL licensing requirements as specified in Title 22, California Code of Regulations, Division 6. A child care worker in a Community Treatment Facility who meets CCL personnel requirements as specified in Title 22, Division 6, Chapter 5, Section 84165(d) and (e), California Code of Regulations, or who is otherwise deemed to be a child care worker by CCLD.
- (6) Community Treatment Facility - means a facility defined in Health and Safety Code Section 1502(a)(8), certified as a Community Treatment Facility by the California Department of Mental Health (CDMH) and licensed as a Community Treatment Facility by the California Department of Social Services (CDSS), Community Care Licensing Division (CCL).

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(7) Community Treatment Facility Licensed Nursing Staff - means a person employed by a Community Treatment Facility and licensed as a registered nurse by the California Board of Registered Nursing; or a vocational nurse or psychiatric technician licensed by the California Board of Vocational Nurses and Psychiatric Technician Examiners to perform functions within their scope of practice.

| d. (1) Date of Issuance - The date an audit report is mailed by the Department, as shown by the postmark on the envelope containing the report, or by proof of service.

| (2) Date of Mailing - The date any correspondence is mailed by the Department, as shown by the postmark on the envelope or by proof of service.

| (3) Date of Receipt - The date a group home provider or foster family agency receives a document from the Department, as shown by a signed certified mail receipt or by operation of the mailbox rule.

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A party is deemed to receive documents mailed through the United States Postal Service five days after the documents are deposited in a sealed envelope with postage paid at an official postal mailing site, if the place of address is within California, or 10 days if the place of address is outside California but within the United States.

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| (4) Department - the California Department of Social Services.

| (5) Direct Contact Contract - An agreement between a group home provider and a social worker, as defined in Section 11-400s.(5) exclusively for direct social work activities to children in care in accordance with Sections 11-402.212(a)(2)(A) and 11-402.222(d). The social worker that is eligible for double weighting shall be an Independent Contractor as provided by state and federal laws, including Section 3353 of the California Labor Code.

| (6) Director - the Director of the Department of Social Services.

| (7) Due Date - The date a group home rate application, a request for good cause or an additional information request is due. If this date falls on a weekend or a legal holiday, the due date is the next business day. If this information is mailed, it shall be postmarked on or before the due date.

| (8) Duplicate - a facsimile copy of the original produced by photocopying or some other technique of accurate reproduction.

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- (3) No more than 54 hours per week per individual child care worker, Community Treatment Facility licensed nursing staff, houseparent and individual first-line supervisor for any program(s) shall be projected on any Program Classification Report(s), SR 2, Column 2, line 16.
- (4) More than 54 hours per week per individual child care worker, Community Treatment Facility licensed nursing staff, houseparent and individual first-line supervisor for any program(s) may be reported on any SR 2(s), Column 2, lines 1 through 12 when:
 - (A) The employee was required to work the additional hours of CCS to prevent children from being in an unhealthy or unsafe situation, and
 - (B) The employee was compensated for the additional hours of CCS in a manner consistent with the Department of Industrial Relations, and
 - (C) The employee was not required to work in excess of 54 hours on a regular basis.
- (5) Hours shall be allocated as required by the August 30th Report, page 5.

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- (A) The August 30th Report, Page 5, ALLOCATION OF HOURS AMONG FUNCTIONS, states:

"ALLOCATION OF HOURS AMONG FUNCTIONS

Some group home staff perform more than one function. For the program classification purposes, the group home provider will be required to allocate the hours worked by such staff among the various functions they perform.

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- (1) Hours of vacation, sick leave, or other types of employee leave shall be counted at the time paid. These hours are not subject to the 54-hour limitation.
- (2) No more than 54 hours a week per individual social worker for any program(s) shall be projected on any SR 2(s), Column 2, line 16.
 - (A) Eligible hours of social work activities performed under the terms of a direct contact contract which are given the additional weighting of 2.0 [see Section 11-402.222(d)] shall be doubled to determine an individual's hours for the 54-hour limit.

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- (B) Example: An LCSW provides five hours of social work activities under the terms of a direct contact contract. The weighted social work hours for this individual prior to application of the additional 2.0 direct contact contract weighting are 12.5. However, after applying the additional 2.0 weighting the total weighted hours increases to 25. In determining the individual's hours for the 54-hour limit, 25 hours shall be countable.

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- (3) More than 54 hours a week per individual social worker for any program(s) may be reported on any SR 2(s), Column 5, lines 1 through 12 when:
 - (A) The social worker was compensated for the additional hours of social work activities in a manner consistent with the Department of Industrial Standards, and
 - (B) The social worker was not required to work in excess of 54 hours on a regular basis.
- (4) Hours shall be allocated as required by the August 30th Report as specified in Section 11-402.211(a)(5).

11-402 GROUP HOME RATE SETTING (Continued)

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- (5) A group home employee functioning as an existing social worker shall be considered a social worker and have his/her hours counted as social work activities if:
 - (A) The employee has been identified and claimed as a social worker in the same program under the cost-based rate setting system prior to July 1, 1990, and
 - (B) The employee does not meet the degrees and equivalents as defined in Section 11-400s.(5).
- (6) Family reunification activities and services provided solely to the family that are not in direct relation to the child's case plan shall not be counted as eligible social work activity hours.

.213 Mental Health Treatment Services

- (a) Eligible hours of mental health treatment services shall be determined by counting the paid-awake hours of the mental health professional while providing mental health treatment services.
 - (1) Hours shall be allocated as required by the August 30th Report and as specified in Section 11-402.211(a)(5).
 - (2) Hours that include other staff, such as child care workers, social workers or group home administrators, etc., are counted when the child is also included.
 - (3) The mental health professional's time is counted, not the child's time.

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- (A) A mental health professional in a one-hour group session with four children is counted as one hour of mental health treatment time.

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- (7) For those group home programs classified at RCL 13 or RCL 14 to receive an additional weighting of 0.10 for each eligible hour of Childcare and Supervision (CCS), there shall be two options. In addition to qualifying by providing an average of 40 or more hours of ongoing training per childcare employee, the requirement for receiving the additional weighting shall be met if the childcare and first line childcare supervisory staff is trained in the management of assaultive behavior, and all the following conditions are met:
- (A) The training must be at least 14 hours in length;
 - (B) The training must be conducted by a professional organization or someone trained and currently certificated by a professional organization as a qualified instructor, and approved by the Department;
 - (C) The entire childcare and CCS staff must complete the training and remain certified and the certifications must be current; and
 - (D) Documentation necessary to verify training as described in Section 11-400t.(1) and documentation that the requirements of Section 11-402.221(e)(7) have been met shall be maintained. In addition, if a provider chooses to claim additional points for training and selects this option, in lieu of submitting a training plan the provider shall submit the name of the professional organization providing the training, when it will be scheduled and the names of childcare staff the provider has scheduled to attend.
- (8) For provisional rate audits, the training weighting, if claimed, shall automatically be added to the weightings of all child care workers employed during the audit period.

.222 Social Work Activities Weightings

- (a) Weightings shall be given to each eligible hour of social work activity based on the professional level of each social worker as specified in the August 30th Report, page 3.

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The August 30th Report states in part:

"(1)	Licensed Clinical Social Worker (LCSW)	2.5
(2)	Licensed Marriage, Family and Child Counselor (LMFCC)	2.5
(3)	Master's of Social Work (MSW) (60 units)	2.0
(4)	Master's of Science in Counseling (MSC) (60 units)	2.0
(5)	Master's (30 units) in a discipline which would enable the individual to sit for the LMFCC or LCSW exam.	1.75
(6)	Bachelor of Social Work (BSW) with at least two years of full-time equivalent experience.	1.5"

Pursuant to changes in Section 4980.08 of the Business and Professions Code added by Statutes of 1998, Chapter 108, Section 1, "(a) The title 'licensed marriage, family and child counselor' or 'marriage, family and child counselor' is hereby renamed 'licensed marriage and family therapist' or 'marriage and family therapist' respectively. Any reference in any statute or regulation to a 'licensed marriage, family and child counselor' or 'marriage, family and child counselor' shall be deemed a reference to a 'licensed marriage and family therapist' or 'marriage and family therapist'".

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- (b) In addition to the above weightings, each eligible hour of social work activity performed by a group home employee who meets the requirements of Section 11-402.212(a)(5) shall be eligible for the weighting of 1.5.
- (c) All individuals, whether employee or under contract, receive the same weighting for their professional level.
- (d) Each weighted eligible hour of social work activities provided under the terms of a direct contact contract shall be multiplied by 2.0 subject to the following restrictions:
 - (1) The contract only reimburses for those hours spent in direct contact with the child(ren) being served and does not reimburse for ancillary social work activities, such as the development of needs and services plans or discharge plans;

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- (2) A maximum of 20 hours per week per social worker, of the contracted direct contact social work activities shall be multiplied by 2.0.
- (3) The person providing the social work activities is not an employee of the group home provider and meets the requirements of an independent contractor as specified in Section 11-400d.(6).
 - (A) The relationship between the group home provider and the individual providing social work activities shall be evaluated by several factors, including but not limited to:
 - (i) The group home has no control over the manner and means by which the individual providing the social work activities performs his/her services.
 - (ii) The payment for social work activities performed is based on completion of the specifics in the contract.
 - (iii) The group home provider and the individual providing the social work activities do not view the work relationship as one of employee/employer.

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- (iv) Example: The weighting for an LCSW providing contracted social work activities for direct contact with the children is computed as one hour of service x 2.5 LCSW x 2.0 "direct contact" = 5.0.

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.223 Mental Health Treatment Services Weightings

- (a) Weighting shall be given to each eligible hour of direct contact mental health treatment services provided by a mental health treatment services professional based on the professional level of the individual as specified in the August 30th Report, page 4.

The August 30th Report, states in part:

"(1)	Psychiatrist	5.0
(2)	Psychologist	5.0
(3)	Licensed Clinical Social Worker (LCSW)	2.5
(4)	Licensed Marriage, Family and Child Counselor (LMFCC)	2.5"

Pursuant to changes in Section 4980.08 of the Business and Professions Code added by Statutes of 1998, Chapter 108, Section 1, "(a) The title 'licensed marriage, family and child counselor' or 'marriage, family and child counselor' is hereby renamed 'licensed marriage and family therapist' or 'marriage and family therapist' respectively. Any reference in any statute or regulation to a 'licensed marriage, family and child counselor' or 'marriage, family and child counselor' shall be deemed a reference to a 'licensed marriage and family therapist' or 'marriage and family therapist'".

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- (b) In addition to the above weightings, each eligible hour of mental health treatment services provided by a licensed mental health professional whose license status is unknown and whose reimbursement is from any source other than AFDC-FC, shall be eligible for the weighting of 2.5.
- (c) Each eligible hour of mental health treatment services provided by anyone other than a licensed mental health professional as described in Section 11-400m.(3) shall not receive an additional weighting, but shall have a base factor of 1.0 for each eligible hour.

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The weighted social work hours per month for this social worker are 217.5 (87 X 2.5).

- (2) Another LCSW provided direct contact social work activities based on a contract for 80 hours per month.

The weighted social work hours per month for this social worker are 400 (80 hours X 2.5 professional level weighting X 2.0 "direct contact" contract additional weighting).

- (3) Total social work weighted points are 617.5 (217.5 + 400), divided by 5.4 for 114.35 points attributed to social work.

(c) Mental health point computation:

- (1) The group home program averages six children in placement per month:

- (A) Two children in a mental health day treatment program;
- (B) Three others seen by a psychologist in a group therapy session at the group home for one hour a week; and
- (C) One other seen in private sessions in a clinic two hours a week by a psychiatrist.

- (2) The weighted mental health hours are:

- (A) For mental health day treatment: two children = 2/6 of the maximum mental health points (30) for a total of 10.
- (B) For the psychologist: Four hours X 5.0 professional weighting = 20 weighted hours per month.
- (C) For the psychiatrist: Eight hours per month X 5.0 professional weighting = 40 weighted hours.

- (3) Total mental health points are: 20 (psychologist) + 40 (psychiatrist) = 60 divided by 5.4 = 11.11 + 10 (day care) = 21.11.

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- (d) Total point computation:
- (1) Add the points for CCS (216.65), social work activities (114.35) and mental health treatment services (21.11) for a total of 352.11.
 - (2) The XYZ program total points are 352 which is in Rate Classification Level 11.

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.3 On-Going Group Home Program Rate Application Process

- .31 Each provider shall submit to the Department a completed rate application as specified in Sections 11-402.35 through 11-402.359, as appropriate, for each program as scheduled by the Department in order to receive a rate for that program. The rate application shall contain a statement that the signatory understands that the information contained in the document is correct to the best of their knowledge and that submission of false or misleading information may be prosecuted as a crime. Additionally, each provider shall submit to the Department any changes to the documentation listed in 11-402.35 that may have occurred during the biennial rate period. These changes must be submitted no later than 30 days of the date of change. Failure to do so may result in rate termination in accordance with 11-402.393.
- .32 The due date for on-going rate applications shall be according to a schedule determined by the Department. The Department shall provide prior written notice of the scheduled due date.
 - .321 An application not postmarked by the due date shall be considered late.
 - .322 Providers shall be allowed to request a determination of good cause for submitting a late application as specified in Section 11-402.37.
 - .323 Providers who do not request a determination of good cause for submitting a late application shall be subject to the penalty provisions specified in Section 11-402.38.
- .33 A rate application shall be considered complete when all required forms have been completed with the necessary information and supporting documentation, as required in Section 11-402.35 needed to determine the RCL, have been submitted to the Department.
 - .331 Providers shall be allowed to request a determination of good cause for submitting an incomplete application as specified in Section 11-402.37.
- .34 The effective date of the rate shall be the first day of the second full month following the rate application due date.

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(B) Section 31-420.241 states:

"241 Placements in group homes shall be subject to the following additional requirements:

"(a) The following conditions shall exist and shall be documented in the case plan:

"(1) Placement is necessary to meet the treatment needs of the child.

"(2) The group home has a treatment program that meets such treatment needs."

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- (b) Providers who are discontinuing any group home program(s) in favor of a new program shall submit the Group Home Program Days of Care Schedule (SR).
- (c) The placement agency recommendation from the host or the primary placing counties as appropriate and as specified in Section 11-425.12.
- (d) A copy of the provisional license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6, and the permanent license when received.
- (e) Effective with the implementation of the group home administrator certification program, the group home administrator certificate indicating completion of that program as required in Health and Safety Code Section 1522.41.

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- .412 The effective date of a new program provisional rate shall be the later of:
- (a) Date of first placement, or
 - (b) Date the Department received a complete rate application as specified in Section 11-402.411, or
 - (c) Date of the provisional license.
- .413 The Department shall establish the provisional rate based on the projected RCL for a group home program using data submitted by the provider in the initial rate application specified in Sections 11-402.351 through 11-402.359.
- .414 The Department may request additional information to complete the initial rate application process in accordance with Sections 11-402.437(a) through 11-402.437(c).
- .415 Applications for new programs which do not meet the requirements of Section .411 shall be subject to Section 11-402.43, Program Changes.
- .416 The effective date of a new program's rate, whether it will maintain or decrease the provisional rate, shall be the first of the month following the date of issuance of the Department's program audit report.

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- .423 Initial rate application documents shall be submitted to the Department prior to the first placement.
- .424 The effective date of the provisional rate for a new provider shall be the later of:
- (a) Date of first placement, or
 - (b) Date the Department receives a complete rate application as specified in Section 11-402.422, or
 - (c) Date of the provisional license.
- .425 The effective date of the rate for a new provider, whether it will maintain or decrease the provisional rate, shall be the first of the month following the date of issuance of the Department's program audit report.
- .426 The Department shall establish the provisional rate based on the projected RCL for a group home program using data submitted by the provider in the initial rate application specified in Sections 11-402.351 through 11-402.359.
- .427 The Department may request additional information to complete the initial rate application process in accordance with Sections 11-402.437(a) through (c).
- .43 Program Changes
- .431 A program change shall be as defined in Section 11-400p.(7).
- (a) For purposes of rate setting, a program change shall include a change to:
 - (1) The number of beds for the program, except as follows:
 - (A) The first increase of five or fewer beds in the lifetime of a program with no change to the program's RCL based on the number of points computed in accordance with Section 11-402.23.

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- (i) Calculate the RCL for the program based on the proposed expansion to verify that the RCL after the expansion is the same as the RCL approved by the Department for the program; and
 - (ii) Contact the Department to inform of capacity change and point determination.
- (2) Conditions or limitations described on the license which necessitates submission of a new license application as required by Title 22, Division 6, Section 80034(a).

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A licensee shall file a new application as required by Title 22, Division 6, Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including, but not limited to, the following:

- (1) Any change of licensee, including, but not limited to, the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.

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- (b) A group home provider shall report any proposed program change to the Department, in compliance with the requirements for program change application specified in Section 11-402.432.
 - (1) The program shall continue to receive the existing rate.
- (c) The Department shall:
 - (1) Set a provisional rate that increases an RCL based on the projected RCL using data submitted by the provider in the program change application specified in Section 11-402.432.

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- (2) For purposes of (c)(1) the Department may request additional information to complete the program change application process in accordance with Sections 11-402.437(a) through (c).
 - (d) Failure to report a program change, the result of which is a decreased rate, as described in Section .435, shall result in the assignment of an overpayment and the adjustment of the current rate as appropriate following a program audit as specified in Sections 11-402.5 and .6.
- .432 An application for an RCL change or a program change shall include:
 - (a) A complete Group Home Program Rate Application, (SR 1).
 - (b) A complete Program Classification Report, (SR 2).
 - (c) An amended program statement reflecting the change and containing the elements specified in Sections 11-402.411(a)(1) through (6).
 - (d) Providers making program changes affecting more than one program, that is, discontinuing one program in favor of another as described in Section 11-402.435(c)(1) or otherwise discontinuing a program, shall submit the Group Home Program Days of Care Schedule (SR 5).
 - (e) The current license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6, for each facility.
 - (f) A copy of the current lease or rental agreement if not previously submitted, and an FCR 16, Group Home Shelter Costs, Self-Dealing Transactions Declaration and Survey.
 - (g) Any changes to the documentation listed in Section 11-402.35 that may have occurred during the biennial rate period. These changes must be submitted to the Department no later than 30 days of the date of change. Failure to do so may result in rate termination in accordance with Section 11-402.393.
- .433 Additional Requirements for Program Changes
 - (a) A program change application projecting an increase of an RCL level to a group home program shall be accompanied by the placement agency recommendation, as specified in Section 11-425.12 and any other requirements specified in Welfare and Institutions Code Section 11462(k).

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- (b) A program change application to change a program to RCL 13 or RCL 14 shall include a recommendation, as specified in Section 11-425.12, from either the host or the primary placing county and any other requirements specified in Welfare and Institutions Code Section 11462.01.
 - (c) For fiscal year 1198-99 and any other subsequent years for which this statutory restriction applies, a program change application which increases the licensed capacity of a program with a higher RCL as a result of decreases in another program which is operated by the same provider and has a lower RCL shall be accompanied by the placement agency recommendation, as specified in Section 11-425.12 and any other requirements specified in Welfare and Institutions Code Section 11462(k)(3)(A).
 - (d) A group home program which has received a provisional rate may not apply for a program change which will result in an increase in its RCL prior to two years from the effective date of the rate for the provider unless a recommendation is received from the host county, the primary placing county, or a regional consortium of counties as specified in Section 11-425.12 and any other requirements specified by Welfare and Institutions Code Section 11462(e)(1)(A).
- .434 A program change application shall be submitted prior to the effective date of the change but no later than 30 days after the change.
- .435 For a complete rate application, the effective date of the rate for program changes, by the type of change, shall be:
- (a) For the RCL which is not changing:
 - (1) For an increase in licensed capacity greater than five in the same or a new facility, the effective date shall be the later of:
 - (A) Date of first placement; or
 - (B) Date of group home license approval.
 - (2) For a decrease in licensed capacity, the effective date shall be the date of the decrease.
 - (b) For the RCL which is changing:
 - (1) For a decrease in RCL, the effective date shall be the date implementing operation of the program at the lesser RCL.

11-403	FOSTER FAMILY AGENCY RATES	11-403
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(a) Rate Determination Process

(1) The Department shall set rates for each foster family agency utilized by counties which place AFDC-FC children.

(A) The rate for a foster family agency program which provides treatment services for children who have treatment needs shall be set in accordance with Sections 11-403(a)(2) and 11-403(b)-(k).

1. As used in (A) above, "treatment needs" means that the placement agency, as defined in Section 11-400p.(3), has determined that the child has services needs which:

(i) Cannot be provided in an available family home;

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(See family home definition specified in Section 11-400f.(3).)

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(ii) Would require group home placement if the child was not referred to a foster family agency; and

(iii) Can be met by the program offered by the foster family agency to which the child is being referred.

2. The payment to foster parents of a foster family agency shall be at least as great as the Department's schedule of foster family agency basic rates plus the amount added by the Department in recognition of the specialized nature of the children placed in such homes.

(B) The rate for a foster family agency program which does not provide treatment services shall be the foster family agency basic rates as specified in Section 11-403(d)(1)(B).

1. A specialized care rate as defined in Section 11-400s.(7) may be paid for a child placed in certified family home of a foster family agency as described in (B) above when the following conditions are met:

(i) the placing agency has determined that the child has care needs greater than those of a normal foster child; and

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- (ii) the placing county has a specialized care system as specified in Section 11-401.3.

(See Section 11-401.4 for out of county placement requirements for specialized care.)

- (2) One rate shall be set for each program for which a rate request is received from a given foster family agency.

- (A) Each foster family agency shall identify and describe each of the programs it offers.

- (B) The Department shall have the authority to verify the legitimacy and accuracy of the descriptions of each program offered.

- (C) Where a foster family agency submits a rate request for more than one program and the Department determines that no significant difference exists between the programs, a separate rate or set of age-based rates shall not be set.

- (b) Rate Ceilings – Rate ceilings are pursuant to Welfare and Institutions Code Sections 11461(a) and 11463.

- (c) Allowable Costs

- (1) Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR Part 74, 45 CFR Part 1356, and Section 11-402.8.

- (A) Allowable costs shall include:

- 1. Payment to the foster parents for those items specified in Sections 11-401.11 and .12.

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1. If all the required forms necessary to the actual setting of rates have been submitted, but additional documentation is needed, the rate request shall be considered complete if the foster family agency submits the remaining documentation within 30 days after notification by the Department.

A complete rate request shall include:

- a. A complete Foster Family Agency – Data and Certification Sheet (FCR 1FFA);
- b. A complete Program Description Checklist (FCR 2FFA);
- c. A complete Days of Care Schedule (FCR 3FFA) for the rate period;
- d. A copy of the license issued by CCL in accordance with Title 22, Division 6, of the California Code of Regulations, for each foster family agency, when received;
- e. The organization's tax exempt status letter from either the Internal Revenue Service (IRS) or the California Franchise Tax Board designating the provider as tax exempt; if any changes have occurred since submission of the last tax exempt status letter.
- f. An endorsed copy of the agency's Articles of Incorporation, filed with the California Secretary of State, if any changes have occurred since submission of the last Articles of Incorporation, demonstrating the organization:
 - (i) Operates in the public interest for scientific, education, service or charitable purposes;
 - (ii) Is not organized for profit making purposes; and
 - (iii) Uses its net proceeds to maintain, improve or expand its operations.
- g. A declaration signed by the non profit corporations' Board of Directors that the non profit corporation will operate during the rate period in the public interest for scientific, education, service or charitable purposes; is not organized for profit making purposes; and uses its net proceeds to maintain, improve or expand its operations.
 - (i) The provider shall immediately notify the Department if the non profit corporation ceases to operate on a non profit basis.
 - (ii) The provider shall immediately notify the Department whenever the non profit corporation becomes inactive, suspended, or otherwise is not in good standing.

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- h. A copy of the credentials demonstrating that each social worker providing services for the program meets the requirement specified in the Health and Safety Code Section 1506, if not submitted with a previous rate request.
 - (C) A complete rate request shall be due according to a schedule determined by the Department. The Department shall provide reasonable written notice of the schedule due date.
 - 1. A foster family agency that does not submit a complete rate request by the rate effective date shall not have a rate set for the new rate period, and shall not be eligible to receive AFDC-FC funds 60 days after the rate effective date.
 - (D) Exceptions to these due dates shall be as specified in Section 11-403(g).
- (2) Effective Date of Rates
- (A) The effective date of the rate shall be the first day of the second full month following the rate request due date.

HANDBOOK BEGINS HERE

Example: Due date is January 1

- January is not counted
- First day of second full month following January is March

Effective date is March 1

HANDBOOK ENDS HERE

- (B) Exceptions to the effective dates of rates shall be as specified in Section 11-403(g).
- (3) Penalty Procedures
- The Department's penalty procedures for late or incomplete rate requests shall be as follows:
- (A) Rate requests not submitted on or before the due date and rate requests that are incomplete are considered late rate requests.
 - (B) The rates for late requests are subject to a monetary penalty equal to three (3) percent applied to the agency's administrative rate component of the rate per child.
 - (C) The rates are subject to the penalty for the number of months the rate request was late beginning on either the rate effective date or the date the rate is reinstated if the rate expired or is terminated.

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(h) Administrative Review Procedure

- (1) The administrative review procedure for foster family agencies shall be as specified in Section 11-430.

(i) State Audit Requirements

- (1) Audit requirements for foster family agencies shall be as specified in Section 11-405.1.

(j) Overpayments

- (1) Overpayment requirements for foster family agencies shall be as specified in Section 11-402.6. An overpayment shall be caused by, but is not limited to, the expenditure of AFDC-FC program funds on items not permissible as specified in Section 11-404.

(k) Accounting Requirements

- (1) Accounting requirements for foster family agencies shall be as specified in Section 11-402.84.

(l) Good Cause for Late Foster Family Agency Rate Request

- (1) A provider who is unable to submit a complete rate request by the due date shall be allowed to submit in writing a request for a determination of good cause as defined in Section 11-400g.(1). The good cause request shall be postmarked not later than five (5) calendar days following the rate request due date and shall contain the following:

- (A) A clear statement that the request is for a determination of good cause;
- (B) The specific reason(s) for submitting an untimely rate request;
- (C) The provider's name, address and telephone number;
- (D) The name, address and telephone number of the person to be notified regarding the determination of good cause; and
- (E) The name, location and program number of the affected program(s).

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- (2) Within 15 calendar days of the postmarked date of a provider's request for a 30-day good cause extension, the Department shall either approve or deny the request and shall notify the provider in writing of the determination.
- (A) When the Department approves a request for good cause for a late or incomplete filing of a rate request, a complete rate request is due within 30-days of the postmark of the Department's approval notification or 30 days after the original rate request due date, whichever is later.
- (B) Rate requests which are not submitted in accordance with Subsection (A) shall be subject to the appropriate penalty contained in Section 11-403(f)(3).
- (C) When the Department denies a good cause request, the provider shall submit a complete rate request prior to the first of the next calendar month and shall be subject to the applicable penalty provisions as specified in Section 11-403(f)(3). The effective date of the rate shall be set in accordance with Section 11-403(f)(1)(B).

NOTE: Authority cited: Sections 10553, 10554, 11460(b), 11462(a)(3), 11463, and 11466.21, Welfare and Institutions Code. Reference: Sections 11461(a), 11462(a)(3), 11463, 11463(i), 11466.21, 11466.22, 11466.24, 11468, and 11468.2, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; and Internal Revenue Code Section 4958.